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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,480

10/24/2005

Fredrik Engman

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12/08/2008

AKERMAN SENTERFITT

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EXAMINER

LEWIS, RALPH A

ART UNIT

PAPER NUMBER

3732

MAIL DATE

DELIVERY MODE

12/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/533,480	Applicant(s) ENGMAN, FREDRIK	
	Examiner Ralph A. Lewis	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38, 54 and 55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38, 54 and 55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Rejections based on Prior Art

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-31 and 34-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Willoughby (US 6,283,753).

Willoughby discloses at Figures 27A and 27 B an impression coping system for impression molding techniques comprised of (1) an implant fastener/attachment means (the illustrated screw) which is capable of engaging an implant (in Figure 27A and B it engages plastic tube 57), (2) a coping 53 which engages the screw and is to be encased in the impression material, (3) a mountable and removable extender 61 which is dimensioned to protrude from the impression material to provide access to the screw and (4) spacer element 55. In regard to claim 7, nearly any element is “adapted to be cut.” In regard to claim 11, the actual person who assembles the device fails to make the device itself patentable. In regard to claim 17, the reasons as to why the spacer might be removed fails to impose any objectively ascertainable structural distinctions

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from the device disclosed by Willoughby. In regard to claim 20, the Willoughby spacer 55 is "split" in that the top profile is different from the bottom profile.

In response to the present rejection applicant again argues that cylinder 53 of Willoughby is an "implant analog" and not a "coping" as claimed. Applicant offers no structural distinctions between an element referred to as an "implant analog" and an element referred to as a "coping," only that they have different names and intended different uses. It is well settled, however, that a prior art element (i.e. cylinder 53) does not become patentable merely because applicant calls it by a different name and/or intends a different use for it. There must be a clear objectively ascertainable structural distinction set forth in the claim(s).

Applicant argues at page 13 of the response that an "impression coping" inherently includes "retentive features" and "means for orientation positioning in relation to the implant" and that the element 53 of Willoughby lacks a means for fastening to the implant and the ability to replicate the position and orientation of the implant. The examiner notes that none of those elements are claimed, if such elements are "inherent" as applicant asserts, then there should be no problem in clearly putting such elements in the claims so that one of ordinary skill in the art can reasonably determine what is required of the claim and what is not.

Applicant further argues that the system of Willoughby shows only a closed tray technique and is not capable of use in an open tray (pick-up) technique and that extender 61 of Willoughby cannot protrude through the impression material during pick up type impression moulding techniques. The examiner notes that present claim 1 is

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directed to a system of parts, not a method of using those parts. Moreover, it is unclear to this examiner why applicant's tube 92 is capable of protruding through the impression material, yet nearly the identical tube 61 of Willoughby is not. Applicant is encouraged to be reasonable and not to read limitations into the claims that are not set forth in the claims.

Applicant argues that element 53 is embedded in a model not in the impression material. The examiner notes (1) impression material has not been claimed, only four parts, two tubes, a screw and a spacer, (2) element 53 of Willoughby is capable of being embedded in impression material and (3) the stone model is a positive impression of the negative impression.

Applicant is urged to set forth clear and distinct structural differences from the prior art, rather than arguing that the broadly claimed elements have different names or have a different intended use.

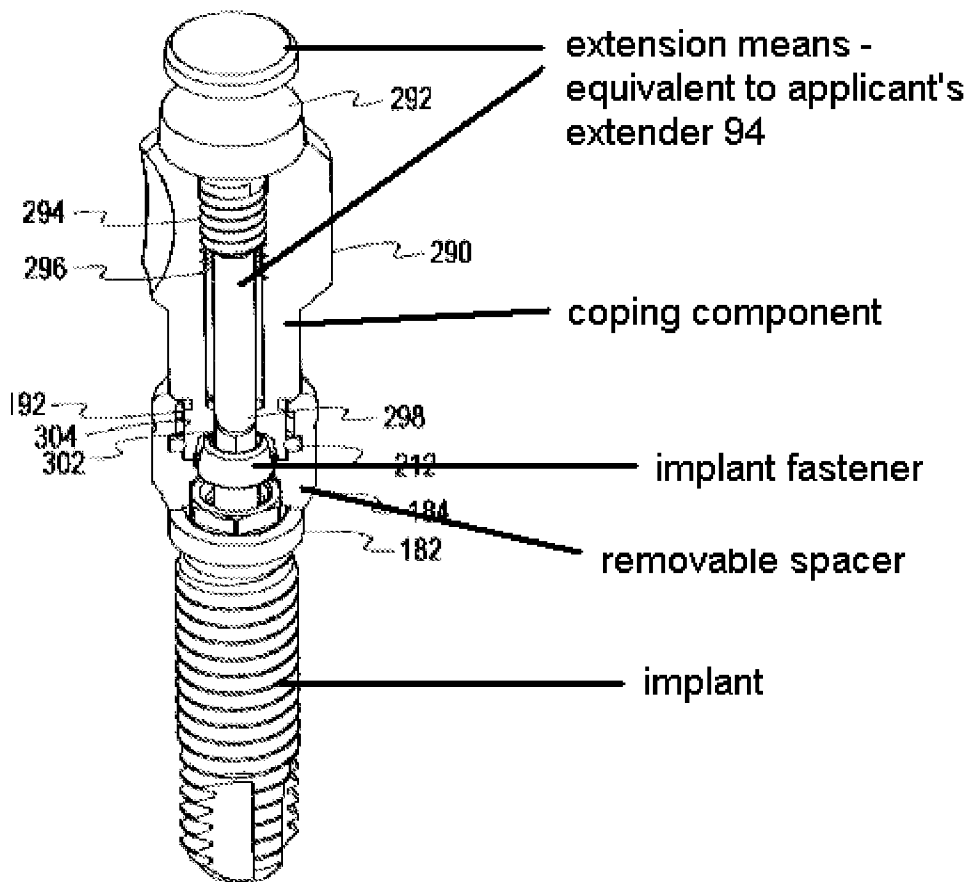
Claims 1-3, 9-19, 21, 22, 25-31, 35, 36 and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Beaty et al (US 6,619,958).

In Figures 17C and 17d Beaty et al disclose an impression coping system comprised of an implant fastener screw 186 (note Figure 12a), impression coping 290, extension means 292 and a removable spacer element 184.

In response to the present rejection applicant argues that two different bolts 140 and 150 in Figures 9 and 10 are required by Beaty et al rather than the single implant

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fastener claimed. The examiner directs applicant's attention the Figure 17c reproduced below which has only a single element identified as the implant fastener.

**FIG. 17c**

(modified with examiner added text)

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32, 33 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willoughby (US 6,283,753).

In the Figure 27A and 27B arrangement, Willoughby uses the extender 61 for making an impression of a model with implant analog 57 instead of directly from an implant in a patient's mouth as in figures 26A and 26B. To have merely used the Figure 27A, 27B extension member 61 impression technique for obtaining an impression directly from the patient's mouth as illustrated in Figures 26 would have been obvious to one of ordinary skill in the art.

Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beaty et al (US 6,619,958).

To have constructed the spacer element 184 of Beaty et al of a conventional plastic material (which inherently has some degree of elasticity) would have been obvious to one of ordinary skill in the art as a matter of routine selection of common readily available materials for the Beaty et al device.

Claims 32, 33, 34, 38, 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beaty et al (US 6,619,958) in view of Lazarof (US 5,681,167).

Beaty et al disclose the claimed method of positioning a coping 290 on implant fastener 186 and fastening the fastener 186 to implant 182. Beaty et al further disclose the use of impression material about the coping 290 (note column 14, lines 58-67), but

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doesn't further explain the conventional making of a master cast with an implant analog. Lazarof, however, teaches the common steps of taking an impression of the implant 50 having coping 154 installed thereon (Figures 29 and 30), attaching an implant analog 140 to the coping embedded in the impression (Figure 38) and then forming a model of the teeth and implant with the implant analog installed therein (Figures 39 and 40). To have continued the Beaty et al method with the conventional method of producing a model as taught by Lazarof would have been obvious to one of ordinary skill in the art.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Cris Rodriguez, can be reached at (571) 272-4964.

R.Lewis
December 6, 2008

/Ralph A. Lewis/
Primary Examiner, Art Unit 3732